

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 13,773

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare denying her application for General Assistance (GA). The issue is whether the petitioner meets the eligibility criteria set forth in the regulations.

FINDINGS OF FACT

The facts are not in dispute. The petitioner is a fifty-three-year-old single woman who has not worked since 1990. The petitioner has a history of depression, but she does not presently allege (nor is there any medical evidence to indicate) that she is unable to work because of any physical or mental disability.

Prior to July 1, 1995, the petitioner had received GA several times because she met a required two of the seven "barriers to employment" then set forth in the GA regulations--she was over forty, and she had not worked for a continuous period of six months in the last five years.

On July 1, 1995, however, the Department amended its GA regulations. One of the changes was to raise the age barrier to employment from forty to fifty-five. When the petitioner applied for GA on July 3, 1995, the Department denied her application because she no longer met this criterion of eligibility. The petitioner still meets the employment history barrier, but she concedes that she does not meet any of the other barriers in the amended regulations (see infra).

ORDER

The Department's decision is affirmed.

REASONS

Effective July 1, 1995, the GA regulations were amended. W.A.M. § 2600(B) now provides as follows:

Except as specifically provided in 2602 (catastrophic situations), GA shall be granted to applicants who

meet one of the following three criteria. The conditions of C (1-6) must also be met.

1. Have a minor dependent (2601), or
2. Do not have a minor or dependent and are not able-bodied (see 2601), or
3. Do not have a minor dependent, are able-bodied, and have two or more of the following employment barriers.
 - a. Age 55 or over.
 - b. Eighth-grade education or less -or- inability to read or write. Eighth grade education is completion of eighth-grade, but not completion of ninth grade.
 - c. Employment or self-employment of fewer than six months in the last five years and full-time student status fewer than six months in the last five years.
 - d. Release from a mental health institution or mental health hospital unit within the last 6 months.
 - e. Participating in a state or federally funded drug or alcohol treatment program.

As noted above, the petitioner does not allege that she is "not able-bodied" (which under the regulations [§ 2601] includes mental impairments) or that she meets any listed "employment barrier" except paragraph 3c. ⁽¹⁾ Although the change in the regulations has impacted harshly on the petitioner there is no question that the Department's decision in her case is consistent with those amended regulations. Therefore, the Board is bound by law to affirm the Department's decision. 3 V.S.A. 3091(d) and Fair Hearing Rule No. 19.

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1. Prior to the amendments this section provided that age 40 or over was a barrier to employment (paragraph 3a); and the education and literacy provisions (paragraph 3b) were listed separately